

**State of Maine**

**Department  
of the  
Secretary of State**



**Notary Public Handbook**

## IMPORTANT INFORMATION

**My Notary Public Commission expires on:**

**Department of the Secretary of State, Notary Public Section..... (207) 624-7650**

**E-mail address:** [cec.notaries@maine.gov](mailto:cec.notaries@maine.gov)

*Questions concerning Notary Public laws, rules or procedures, document legalization (apostilles or authentications).*

**Department of Human Services, Office of Data, Research and Vital Statistics ... (207) 287-3181**

*Questions concerning wedding procedures and ceremonies, disposition of marriage documentation.*

**Informed Notaries of Maine ..... (207) 373-9036**

PO Box 5474, Augusta, ME 04332

E-mail: [memberservices@informednotariesofmaine.org](mailto:memberservices@informednotariesofmaine.org)

Web site: <http://www.informednotariesofmaine.org>

*Independent professional association serving Notaries Public in the State of Maine.*

**American Society of Notaries..... (850) 671-5164**

P.O. Box 5757, Tallahassee, FL 32314

E-mail: [mail@notaries.org](mailto:mail@notaries.org)

Web site: [www.notaries.org](http://www.notaries.org)

**National Notary Association ..... (800) 876-6827**

9350 De Soto Avenue, Chatsworth, CA 91313-2402

E-mail: see Web site.

Web site: [www.nationalnotary.org](http://www.nationalnotary.org)

*Independent private businesses serving Notaries Public nationwide.*

**Secretary of State Website Home Page:**

[www.maine.gov/sos](http://www.maine.gov/sos)

**Searchable listing for Notaries Public in Maine:**

[www.maine.gov/sos/cec/notary](http://www.maine.gov/sos/cec/notary)

**Searchable listing for Dedimus Justices in Maine:**

[www.maine.gov/sos/cec/notary/dedimus.html](http://www.maine.gov/sos/cec/notary/dedimus.html)

## **A Message from the Secretary of State**

Dear Citizen,

Thank you for your interest in becoming a Notary Public in the State of Maine. You are to be commended for your desire to serve the public.

Notaries Public have duties and responsibilities that confer upon them the trust and faith of the public. Notaries Public are authorized to perform certain official duties that are critical to those who need them.

Because the work of Notaries Public is so important, please make sure you take the time to review this guide carefully. It is critical for you to understand the obligations of being a Notary Public and for you to perform those duties in a manner that merits the trust, confidence and respect appropriate to the office.

The Department of the Secretary of State works closely with Notaries Public in Maine and the staff in the department's Notary Public Section will be happy to assist you. While we cannot offer you legal advice, we can answer questions about practical or administrative issues and provide other support to you. Please do not hesitate to contact the Notary Public Section of our office by calling (207) 624-7650; by writing to: Notary Public Section, Bureau of Corporations, Elections and Commissions, 101 State House Station, Augusta, ME 04333-0101 or by visiting our website at:

[www.maine.gov/sos/cec](http://www.maine.gov/sos/cec)

Once commissioned as a Notary Public, it is the responsibility of the Notary Public to maintain a level of education appropriate for conducting notarial duties. Our office encourages you to attend workshops on a yearly basis to remain current and avoid conducting inappropriate or flawed notarizations.

The Informed Notaries of Maine (INM) is a state-wide association of Notaries Public dedicated to providing educational opportunities in a workshop format for Notaries Public in Maine. These workshops provide newly commissioned Notaries Public with the proper rules and procedures for notarizing documents and updates on law changes.

The acts of Maine's well-informed and capable Notaries Public clearly benefit the State and its People. As our State benefits, I hope you, too, will find your commission to be personally rewarding. Public participation is key to our democracy and I thank you for your willingness to become not only an involved citizen, but also a conscientious public official.

Sincerely,

**Matthew Dunlap**  
Secretary of State

## **Foreword**

Historically, Notaries Public predate the Roman empire; their development coincides with that of written and recorded communication. As the ability to read and write was rare, the earliest Notaries Public served primarily as scribes to assist the illiterate. The decline of the Roman empire saw a corresponding reduction in the volume and importance of written communication. It wasn't until the dawning of the Renaissance that Notaries Public were once again called upon to perform important societal functions. Over the centuries, many a great author, poet and historian supplemented their incomes with fees collected from the provision of literacy services.

American pioneer history is replete with examples of notarial assistance. Among them: the processing of land or mining claims, the authentication of public or private documents, and the reading and writing of general correspondence. Since that time, the official duties and significance of American Notaries Public have expanded considerably, largely through statutes enacted by the states. More than simply a scribe, the Notary Public of today acts as a liaison between the government and its citizens, facilitating the authorization of numerous transactions.

Presently, there are over two and one half million Notaries Public in the United States; approximately 25,000 serve the State of Maine. All Notaries Public share a common endeavor: to justify their public's trust by providing a vital public service in the fairest and most professional way possible. We appreciate your commitment to serve the people of Maine, and wish you the best of luck in the execution of your duties.

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## QUESTIONS AND ANSWERS

### I. BECOMING A NOTARY PUBLIC

**Q. What qualifications must a person have?**

- A.** A Notary Public must be a resident of the State of Maine who is at least 18 years of age. If so, the applicant must then be recommended for the commission by a registered Maine voter who can attest to the applicant's ability to perform the duties required of a Notary Public. The Municipal Clerk or Registrar of Voters for the applicant's municipality must also verify the residency requirement by signing and sealing the application form. If the applicant has been convicted of a crime for which imprisonment may be a penalty, the applicant is ineligible for appointment for the following reasons: awaiting sentencing, free pending the appeal of the conviction, incarcerated or under probation or parole. Conviction of certain crimes involving dishonesty renders a person ineligible for five years following release or the termination of probation.

**Q. How does a person become a Notary Public?**

- A.** The applicant must apply for and be granted a commission. Current application forms are available from the Department of the Secretary of State. These applications must be returned to the Bureau of Corporations, Elections and Commissions, Notary Public Section, together with the \$50.00 application fee. Applications for Notary Public appointments are considered by the Secretary of State. If the Secretary of State determines that the applicant is suitable, commission paperwork is issued and mailed directly to the applicant.

**Q. May an applicant for a commission as Notary Public perform duties and services as soon as the commission is received?**

- A.** No. An applicant is not permitted to act as a Notary Public at the time the commission is first issued. Under the provisions of the Maine Constitution, the applicant must first qualify by swearing an oath of office before a **Dedimus Justice**. The oath of office may be administered by *any* Dedimus Justice in the State of Maine.

Upon appointment, each appointee will receive a Certificate of Qualification (oath of office form) and a notice describing the process of being sworn into office. *The date of the applicant's appointment* appears on the front of the Certificate of Qualification and the notice accompanying this document.

The applicant must take the oath of office before a Dedimus Justice within *30 days* of the date of the applicant's appointment. After administering the oath of office, the Dedimus Justice will complete the Certificate of Qualification.

To find a Dedimus Justice in your area, you may contact the Notary Public Section at 624-7650, or visit our website at:

[www.maine.gov/sos/cec/rcn/notary/dedimus.htm](http://www.maine.gov/sos/cec/rcn/notary/dedimus.htm)

The applicant must then return the completed Certificate of Qualification to the Notary Public Section of the Department of the Secretary of State within *45 days* of the date of the applicant's appointment. It is the responsibility of the applicant, not the Dedimus Justice, to see that the Certificate of Qualification physically arrives on time at the Notary Public Section. We suggest the use of "return receipt requested" mail or hand delivery.

**If the Notary Public is not sworn into office by a Dedimus Justice within 30 days and/or the Certificate of Qualification is not *received* by the Notary Public Section within 45 days of the date of appointment, the commission is suspended and the applicant must repeat the entire process to achieve a valid appointment.**

Upon receipt of the properly completed Certificate of Qualification, the appointee's Certificate of Office will be mailed. This is your only evidence that the Notary Public Section received your oath of office form in a timely manner.

- Q. How long is the Notary Public's commission (term of office) and what is the reappointment procedure, when the term has ended?**
- A. Seven years. At the end of the seven year commission, the Notary Public will have the option of applying for a renewal of this commission. In order for a notice of renewal to reach the Notary Public at the time of renewal, the mailing address of the Notary Public must be kept up-to-date with the Notary Public Section. Application for the renewal of a commission does not automatically continue the commission of the Notary Public. Once the Notary Public Section receives the renewal fee, new commission paperwork is issued to the Notary Public. The renewal applicant must appear before a Dedimus Justice, take an oath of office, and meet the filing deadline of the Certificate of Qualification as stated above in order to complete the renewal process.
- Q. Must attorneys apply for Notary Public commissions?**
- A. No. Attorneys have "all of the powers of" and are "authorized to do all acts which may be done by" Notaries Public (4 M.R.S.A. Section 1056). However, attorneys may apply for Notary Public commissions if they wish to officially hold the office of Notary Public.
- Q. Can a Notary Public who is commissioned by the State of Maine use that commission outside the State?**
- A. No. A Notary Public commissioned by the State of Maine may only use the commission in the State of Maine. (NOTE: A Notary Public from another state, province, or country cannot act as a Notary Public in the State of Maine.)
- Q. Are Notaries Public required to maintain embossing seals or stamps?**
- A. No. It is optional for Notaries Public in the State of Maine to own or use an embossing seal or a stamp with their name and expiration date.

**Q. If a Notary Public wishes to own and use an embossing seal, are there any special rules for this seal?**

**A.** Yes. An embossing seal must be engraved with the Notary Public's name exactly as it appears on the Certificate of Office, which is the way the Notary Public must always sign documents. The seal must also have the words "Notary Public"; and contain either the words "Maine" or "ME." or the Great Seal of the State of Maine. *Please keep in mind that using an embossing seal does not eliminate the other requirements for a proper notarization such as a statement of what the Notary Public has done (an acknowledgment or Jurat statement), the official signature of the Notary Public, the commission expiration date and the date when the notarization was performed.*

An embossing seal may be purchased from a local stationery store, office supply store or a printing shop. It is both the option and the responsibility of the Notary Public to purchase the embossing seal because the State of Maine does not supply it.

**Q. What is an authentication or apostille?**

**A.** For documents going out of the State of Maine, either to other states or foreign countries, authentications or apostilles may be requested. These are certificates of qualification issued by the Department of the Secretary of State, to verify the signer as holding a particular office and having signed a document with the proper authority. These certificates may be obtained, for a fee of \$10.00, from the Department of the Secretary of the State, Bureau of Corporations, Elections and Commissions, Notary Public Section. In order to complete such a request, our office needs to know the state or country of destination since certain destinations require specific language on the certifications. These authenticating documents, not a Notary Public seal, prove to authorities in other states or countries that the Notary Public has been duly commissioned and authorized to perform notarial acts. For any document going outside this country, the use of an embossing seal is highly recommend.

**Q. What records must a Notary Public keep?**

**A.** Effective July 14, 1994, pursuant to 4 M.R.S.A., Section 955-B, Notaries Public commissioned in and for the State of Maine are **no longer** required to maintain or keep records of all acts they may perform while acting in their capacity as Notaries Public. **However, a Notary Public is required to keep and make a record of all marriages performed** (see 19-A M.R.S.A., Section 654). The Secretary of State **strongly recommends** that Notaries Public maintain a record of all notarial acts. Not only is it a good way to keep track of individual acts, it provides protection for both the Notary Public and the person requesting the notarial service. Additionally, a detailed record of the notarial transaction is useful in the event a Notary Public may be called into a court of law. If the Notary Public decides to maintain records, these records are to remain in the exclusive custody of the Notary Public. The Notary Public may not surrender the records to another Notary Public or to an employer. The records may be inspected in the presence of the Notary Public by any individual whose identity is personally known to the Notary Public (or is proven on the basis of satisfactory evidence) and who specifies the notarial act to be examined. When the Notary Public is removed or resigns from office, the records may be sent to the Notary Public Section. The Notary Public Section will forward the records to the State Archivist.



If as a Notary Public you maintain a record book or register, you should make an entry for each official act. The entry should contain the place, date, and time of the act; a thorough description of the act; the names of all the persons who have asked the Notary Public to perform the applicable acts; the form of identification and document number from the identification which was accepted by the Notary Public as valid; and the fee, if any, which was charged.

The following is an example of a good description of an official act:

*January 14, 1998: Witnessed signature on 2 trademark applications for Annie Sample, Alabama driver license # 1234567, at the CEC office. No fee charged.*

In addition, it is recommended that the Notary Public request each person who signed a document to also sign the record book. Many office supply stores, stationery stores or Notary Public supply companies sell record books which are suited or specifically designed for Notary Public records.

**Q. What are the offices and duties of a Justice of the Peace and a Dedimus Justice?**

- A.** Beginning in 1981, the office of Justice of the Peace, as it was traditionally known, was phased into the office of Notary Public under the title Notary Public. The process was completed in 1988.

The title **Justice of the Peace** has subsequently been given to what was formerly referred to as "Complaint Justice". The qualifications to be appointed to this office are as follows: must be an attorney-at-law who is licensed to practice law in the State of Maine and has who been appointed to this position by the Chief Judge of the District Court. The duties of a Justice of the Peace include the issuing of search warrants, the endorsing of certificates of commitment of the mentally ill, and the receiving of complaints and issuing process for the arrest of persons charged with offenses.

A **Dedimus Justice** is an official appointed by the Governor for the exclusive purpose of swearing or affirming people into various offices such as that of Notary Public.

## II. POWERS AND DUTIES

**Q. What are the general powers of a Notary Public?**

- A.** Some of the commonly exercised powers of an Notary Public include: the administration of oaths or affirmations, certification of an affidavit or an acknowledgment of instruments related to real estate transfers, certification of copies of private documents, and solemnization of marriages.

There is no single act called "notarization". However, there are specific guidelines related to each function which Notaries Public are authorized to perform. For example: when a document has been drawn up stating a person has "sworn and subscribed" before a Notary Public, that person must have taken an oath and must have signed that document in the presence of the Notary Public. If the Notary Public has questions concerning proper notarial practice, the Notary Public Section is available to assist.

**Q. What steps should I take to ensure that I conduct myself properly as a Notary Public?**

- A.** To protect both yourself and the people you may serve, all Notaries Public should follow these simple procedures:

- 1. Make sure the signer provides proper identification to ensure identity.** "Good ID" would be a form of identification with a photograph or physical description. Credit cards or social security cards are not "good" forms of identification as these documents have no physical descriptions of the holders, but rather only the signatures.
- 2. Make certain the signers of the document have an understanding of what they are signing.**
- 3. Make sure that the statement which the Notary Public is to sign makes sense and is true.** There is no need for you to read every item printed on the document; you must only be certain that the part of the document which you sign is true. You are taking a chance each time you sign an acknowledgment which you do not understand. As a Notary Public, you should never sign a document that has been written in a language in which you are not literate. How can you properly acknowledge a statement if you have no idea what is in the statement?
- 4. Make sure no blanks exist which could possibly be filled in at a later time.** You should advise the signer of the document of the problem blanks might bring, but ultimately, the signer must make the final decision. Never use "white out" products to alter a document. If you cross out items in a document, have all parties involved initial the areas crossed out.
- 5. Administer the oath or affirmation that is printed on the document.** There should always be an acknowledgment statement or a Jurat ("sworn and subscribed" language) on the document. The notarization is invalid without such text. You should never sign your name to a document without this type of language. An oath *must* be administered for **each** document containing such a statement. A Notary Public must never sign blank or false certificates. (Please see the sample acknowledgments and jurats on pages 20-23).

6. **Always personally witness the signature of the person appearing before you.** To witness a signature means that the signer must personally appear before you and then "subscribe" (sign) the document in your presence.
7. **You must always date your notarization.**
8. **You must originally sign the document.** Your signature should be the version of your name that is on file with this office. In addition to your signature and in order for the document to be self authenticating, you should print or type your name, your office - **Notary Public, State of Maine** -and your commission expiration date directly beneath your signature.
9. **Although not required by law, a detailed entry of the notarial act should be recorded in a record register.** The Secretary of State strongly recommends that all notarial acts be recorded in a separate, permanently bound record book, with each entry including: the type, date and time of day of each notarial act; a description of the document or proceeding; the signature, printed name and address of each person whose signature is notarized and of each witness; and whether (1) the signer was personally known to the Notary Public, (2) identified on sworn word of a credible witness, or (3) identified through identification cards, which must be described in the record book.

If a Notary Public does not carefully and conscientiously fulfill the duties of the office, the Notary Public could possibly be sued if someone is harmed by any action or failure to perform an act. If the Notary Public willfully and knowingly violates an official duty, the Notary Public will be liable to anyone injured if the violation of duty is the direct and immediate cause of injury.

Also, although it may sound strange, "innocence" is not always a defense. If an injured party can prove a careful Notary Public would not have made the mistake and the injury would not have occurred if careful duties were performed, a court would be likely to find in favor of the injured party.

Notaries Public may not practice law unless they are duly authorized members of the Bar. **Any advice given - no matter how clear or obvious it may appear - could be considered to be legal advice, and if anyone claims to have been misled by it, a lawsuit could result.** Notaries Public should not draft a legal document. The primary responsibility of a Notary Public is administer an oath, if required, and witness the signing of the documents.

**Notaries Public are officials representing the State of Maine.** Notaries Public risk personal liabilities if they take short cuts. **Employers cannot alter official duties.** No matter what demands may be made upon Notaries Public by constituents or employers, they must always limit their actions to those which fall within their authority *even if the employer has paid the commission fee.*

Notaries Public should not use their office or seal to promote or endorse a product, service, or contest. Notaries Public must make sure all notarial acts they may perform are valid; Notaries Public must not make meaningless or frivolous notarizations.

**If you as a Notary Public have any questions concerning your eligibility to perform an act, DON'T DO IT!!**

**Q. Can I serve as a witness on a document *and* as the Notary Public for the signer?**

**A.** As a general guideline, the Office of the Attorney General has advised us that a Notary Public should not act both as a witness and as a Notary Public for the same transaction.

**Q. Can I notarize a photocopy of a birth certificate or other documents issued by governmental agencies?**

**A.** No. A Notary Public cannot "certify" or "attest" that a government copy is a true copy. Only the issuing governmental agency can certify a document's authenticity. In order to obtain a certified copy, the individual must obtain it from the agency that controls it. (For school diplomas and transcripts, you can notarize a sworn statement or acknowledgment from a school official stating the document is a true copy.)

**Q. What are meant by the terms "swore", "subscribed," and "known to me"?**

**A.** "Swore" means "took an oath". "Subscribed" means "signed". When "Known to me" appears in a document which a Notary Public has been asked to sign, it means "proven to be the person named". These "old-fashioned" terms still appear in many affidavit forms. Instead of "known to me", newer forms may have the phrase "properly identified" or some other, clearer expression.

**Whenever you, in the capacity of a Notary Public, are asked to sign a document, *you must obtain positive identification.***

**Q. What fees may a Notary Public charge?**

**A.** There is no schedule of fees that a Notary Public must charge. The only statutory reference to fees is found in 4 M.R.S.A. Section 958 which specifies a charge of \$1.50 in the course of a lawsuit to provide for the notification of parties, making of certificate and recording the proceedings.

For other services, the Notary Public may determine the fees to be charged. Given the fact the citizens of the State of Maine are placing trust in Notaries Public when seeking their services, it would be most inappropriate to charge fees which are unreasonable or unfair.

**Q. What is the role of the Notary Public in the election petition process?**

**A.** The petition is an important part of the political process in Maine, and every petition must be taken to a Notary Public before it may be filed with the Department of the Secretary of State.

The duty of the Notary Public is to administer the oath as printed on the petition form and witness the signature of the person who circulated the petition. That person must verify to the Notary Public that the petition was circulated according to law. There is a space on every petition form where the circulator must swear and sign in the presence of a Notary Public that the petition was circulated by the individual appearing before the Notary Public.

**Q. What is the role of the Notary Public in the absentee voting process?**

- A.** The Notary Public is one of the officials who may act as a witness for "third-person" ballots in the absentee voting process (see 21-A M.R.S.A. Section 754-A, sub-section 2.). Other authorized persons are the clerk or deputy clerk of a municipality, a clerk of courts or two other individuals. A Maine absentee voter who has a ballot delivered or returned by a "third-person" (a person other than the clerk or an immediate family member of the voter) must complete the ballot in the presence of a Notary Public or the authorized persons named above.

If you, acting in the capacity of a Notary Public, are called upon to participate in this process, you must be aware of the following laws:

1. A Notary Public who is a candidate or an immediate family member of a candidate cannot obtain, deliver or witness another person's absentee ballot.
2. Before marking the ballot, the voter must show it to the Notary Public who must examine it to be certain that it is unmarked. If the ballot has been previously marked, it cannot be used.
3. Except as provided below (in #5), there may be no communication between the voter and the Notary Public concerning the persons or issues for whom the voter will cast their ballot.
4. The voter must mark the ballot according to the instructions on the ballot in such a way as to make it impossible for anyone to see how he or she has voted. The voter must seal the ballot in the return envelope and then complete the affidavit on the envelope in the presence of the Notary Public who must sign the witness certification. The role of the Notary Public is solely to verify that the ballot was unmarked, the voter cast the ballot in the Notary Public's presence and sealed the ballot in the return envelope. The Notary Public should never be concerned with the way the voter cast the ballot.
5. A voter who is unable to read or mark the ballot because of physical disability, illiteracy or religious faith may request another person, other than the voter's employer or agent of that employer or officer or agent of the voter's union, to assist the voter in reading or marking the ballot. The voter or the aide must mark the ballot in the presence of one of the following witnesses: Notary Public, clerk of a municipality, clerk of courts or another individual. The voter, or the aide at the voter's request, shall complete and sign the affidavit in the presence of the witness, who shall sign the witness certificate. The aide must complete and sign the certification for aides on the outside of the envelope. If possible, the Notary Public should not be the aide, but should act as the witness.

If you expect to be called on to witness absentee ballots, you should be familiar with the Maine Election Laws (21-A M.R.S.A.). If you have any questions, you must contact either your Municipal Clerk, or the Department of the Secretary of State, Division of Elections and Commissions at 624-7650.

**Q. May a Maine Notary Public perform marriage ceremonies?**

- A.** Yes. Only Maine, South Carolina and Florida allow their Notaries Public to perform marriages.

**Q. What rules/procedures should a Notary Public be aware of pertaining to marriage ceremonies?**  
(Note: the text below reflects recent changes in the law that were effective July 25, 2002.)

1. Two people may be married only if they have obtained the proper license and both understand the significance of marriage and express their will to be married at the marriage ceremony.
2. If the persons to be married have residences in different towns in Maine, they must record their Notice of Intentions in the office of the clerk of the town in which at least one of them resides. If one is from outside Maine and the other is a Maine resident, they must file in the resident's municipality.
3. If both parties to a marriage reside outside of Maine and want to be married in Maine, they must file their Notice of Intentions in *any Maine municipal clerk's office*.
4. There is no waiting period before a license can be granted. Blood tests are not required.
5. Once the couple has obtained the license, they are then free to marry anywhere in the state of Maine. The license is only valid for 90 days (not three months) from the filing date. The couple to be married must have the required license with them at the time of the ceremony. Please review the "License Valid Until" item to insure that the license presented to you is still valid. Do not perform a ceremony with an expired license, but refer the couple to the municipal clerk to obtain a new license.
6. Two people must witness the marriage ceremony, in addition to the person performing the ceremony and the couple. Witnesses do not have to be of legal age; however, they must be old enough to fully understand the seriousness of the event.
7. The Notary Public must obtain the signatures and the printed names of both witnesses in appropriate spaces. As a Notary, you should always provide *your commission expiration date*, not your appointment date, on the license. It is recommended that you do not apply your notary seal to the marriage license, as it may interfere with the legibility of the document and/or cut the paper.
8. The Notary Public must return the completed license to the municipal clerk who issued it within seven working days after the marriage ceremony. The license should never be given to the married couple after the ceremony - it is the responsibility of the Notary Public to return the license to the clerk who issued it. This is the only paperwork necessary for solemnizing a marriage.

According to the Department of Human Services, Office of Data, Research and Vital Statistics, **all licenses must be completed in black ink.**

9. If the Notary Public wishes to provide the couple with a marriage certificate immediately following the ceremony, attractive forms are often available at office supply or stationery stores. The Notary Public may either complete one of these forms for the couple or prepare a form for the marriage certificate.

Please make sure that the couple understands that this certificate is a "keepsake" and may not be used for legal purposes. As soon as the Notary Public completes and returns the license to the clerk who issued it, the couple may obtain a certified copy of the official marriage license from the municipality that issued the license or from the Department of Human Services, Office of Data, Research and Vital Statistics.

10. A Notary Public is required to keep and make a record of all marriages performed (see 19-A MRSA, section 654).

If questions should arise concerning any aspect of the marriage process or marriage laws in the State of Maine, the Department of Human Services, Office of Data, Research and Vital Statistics is the state agency that handles information for this particular area. You may contact this office by calling **(207) 287-3181**.

There are mandated rules for civil marriage ceremonies. Couples planning to be married often write their own ceremonies. As long as the activities are lawful, there is no reason why you should not conduct a ceremony as they have planned it.

**The following is a brief form of a civil marriage ceremony:**

**Official:** As an expression of your mutual desires and purpose of being joined in marriage, you will please join hands.

*(Addressing the man by name):* Do you take this woman to be your lawfully wedded wife, promising to love, honor and cherish her, and in all respects to be a faithful husband so long as you both shall live?

**Answer:** I do.

**Official:** *(Addressing the woman by name):* Do you take this man to be your lawfully wedded husband, promising to love, honor and cherish him, and in all respects to be a faithful wife, so long as you both shall live?

**Answer:** I do.

*(Rings may then be placed on the fingers.)*

**Official:** Since you have entered into this honorable estate of matrimony by mutual promises, by virtue of the authority vested in me by the State of Maine, I now pronounce you husband and wife.

### III. CONFLICTS OF INTEREST

**Q. Are there times when a Notary Public may not act?**

- A.** Yes. A Notary Public must not act in any official capacity if there is any interest which may affect impartiality.

One important aspect to this general "conflict of interest" principle is the rule that one may not act if one is a "party to the instrument". Some writers call this rule the "beneficial interest" rule.

**Q. What is the meaning of the expression "party to the instrument"?**

- A.** A Notary Public is a "party to the instrument" in any transaction if the completion of the transaction will directly benefit the Notary Public, whether financially or in any other way.

The Maine law governing this issue can be found in 4 M.R.S.A. Section 954. The following is an excerpt which lists some of the situations in which a Notary Public is permitted to act:

*"Any notary public who is a stockholder, director, officer or employee of a bank or other corporation **may** take the acknowledgment of any party to any written instrument executed to or by such corporation, or may administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or may protest for non-acceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such bank or other corporation...."*

It goes on to describe some of the cases in which a Notary Public is presumed to have an interest. In these cases, it is unlawful for a person commissioned as a Notary Public to serve as a Notary Public.

*"... It shall be unlawful for any notary public to take the acknowledgment of an instrument by or to the bank or other corporation of which he is a stockholder, director, officer or employee where such notary public is party to such instrument, either individually or as a representative of such bank or other corporation, or to protest any negotiable instrument owned or held for collection by such bank or other corporation where such notary public is individually a party to such instrument."*

Please note, the statute does not provide a full list of cases in which a Notary Public may act nor does it list all cases in which you may not act. It merely attempts to make the law clear in an area which has been a source of many court cases.

In summary, Notaries Public may serve the day to day transactions of the firms with which they may be associated, with two exceptions. They may not serve if the transaction will benefit them directly (other than their usual salaries) and they may not serve if they are also acting as a representative of any party (including their own firms) in the transactions.



**Q. May a Notary Public perform official duties for family members?**

- A.** A Notary Public shall not perform any notarial act for any person if that person is the Notary Public's spouse, parent, sibling, child, spouse's parent, spouse's sibling, spouse's child or child's spouse, *except that a Notary Public may solemnize the marriage of the Notary Public's parent, sibling, child, spouse's parent, spouse's sibling or spouse's child.* Step family members are affected by this law and are considered the same as blood family members.

Chapter 425 of the Public Laws of 1999, effective September 18, 1999, added the spouse's sibling and the spouse's child as conflicts of interest. However, a Notary Public may now solemnize the marriage of a family member; eliminating the requirement for a second unrelated Notary Public be present to witness and sign the marriage license as one of the two required witnesses.

**Q. Are there any public offices which a Notary Public may not hold?**

- A.** No. According to a September 27, 1989, decision from then Attorney General James E. Tierney which cited the United States Supreme Court case of *Bernal v. Fainter*, 467 U.S. 216, 225, 226 (1984) and the State of Maine case of *Howard v. Harrington*, 114 Me. 443 (1916), the duties of a Notary Public are "essentially clerical and ministerial", and are not "invested with policy making responsibility or broad discretion in the execution of public policy that requires routine exercise of authority over individuals". Between the years, 1905 and 1981, the office of Notary Public had assigned to it certain judicial functions; these duties have subsequently been assigned to another position in state government.

### **SAMPLE ACKNOWLEDGMENT AND AFFIDAVIT FORMS**

One of the most important responsibilities of the Notary Public is to complete acknowledgment and affidavit forms. A certificate of acknowledgment should be written on the same sheet as the instrument acknowledged. If this is not possible, the certificate should fully and accurately describe the instrument acknowledged and should be securely attached to that instrument.

An **acknowledgment** is a formal admission made in person before a proper officer by someone who has executed an instrument. The person must state that the instrument was personally and freely executed. (The word "acknowledgment" is also used to refer to a certificate completed by the officer before whom an instrument is acknowledged.) It is always good practice to require a person acknowledging an instrument to sign a dated entry in your record book stating that the acknowledgment of the specific instrument had been performed.

In 4 M.R.S.A. Sections 1011-1057, there can be found a variety of acknowledgments; the Uniform Recognition of Acknowledgments Act offers uniform methods by which notarial acts may be done and recognized as such, although these are not the only ways in which documents may be notarized.

## SAMPLE ACKNOWLEDGMENT FORM

Date \_\_\_\_\_

State of Maine

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

Signature of Notary Public

Name of Notary Public (*print your name*)

Notary Public, State of Maine

My commission expires: \_\_\_\_\_

The above sample is an individual short form based on 4 M.R.S.A. Section 1016. Rather than having to print this or similar statements for each document, a number of Notaries Public have found it more convenient to have a facsimile or rubber stamp of the acknowledgment, thereby having only to fill in the county, date, name of the person acknowledged, their own signature and their own date of commission expiration.

An **affidavit** is essentially an oath or affirmation reduced to writing. In addition to the statement sworn to by the maker of the affidavit, it contains a "Jurat" a certificate signed by the officer who takes the affidavit. The Jurat should state the time and place of the making of the affidavit, but it is good practice for both the affiant and the official to initial and date every correction and every page in an affidavit containing more than one page.

## SAMPLE JURAT FORM FOR AN AFFIDAVIT

State of Maine

County of \_\_\_\_\_

Before me this day as a Notary Public personally appeared (insert name of person) who being duly sworn, deposes and states (insert fact to be affirmed).

\_\_\_\_\_  
Signature of person making affidavit.

Sworn to and subscribed before me this (insert day, month and year).

Signature of Notary Public

Name of Notary Public (*print your name*)

Notary Public, State of Maine

My commission expires: \_\_\_\_\_

## **OATHS AND SWORN STATEMENTS**

An **oath**, generally, is any statement which a person makes signifying that he or she is bound in conscience to do or refrain from doing an act. Intentional falsehoods made while "under oath" before a person qualified to take oaths are punishable as false swearing. Examples of oaths are those administered to individuals who will testify in court or who will give depositions out of court.

When a Notary Public takes a sworn statement, an oath must be administered to each person sworn and must, in effect, ask each person "do you swear" to the truth of the statement?

Commonly, oaths make reference to GOD. Some individual's religious beliefs prevent the "swearing" of oaths using this reference to GOD; substitution of the word "affirm" for "swear" in any oath usually makes the statement acceptable, and the resulting affirmation may be substituted freely for a sworn oath without making reference to GOD.

### **SAMPLE OATHS**

- "Do you (swear/affirm) under penalty of law that what you are about to say will be true (so help you God)?"
- "Do you (swear/affirm) under penalty of law that you have read and understood \_\_\_\_\_ and that to the best of your knowledge and belief it is true (so help you God)?"
- Do you (swear/affirm) under penalty of law that you have executed this (insert type of document executed) \_\_\_\_\_ and that it is your free act and deed (so help you God)?"

## **CHANGES OF NAME OR ADDRESS**

You must notify the Notary Public Section if you change your address. Our office sends renewal notices approximately six weeks before a commission expires. If you neglect to notify us of an address change, your renewal notice may never reach you or if our office must contact you by mail concerning changes in laws that affect your Notary Public commission, the notice may never reach you.

You must also notify our office if you change your name. A change of name might occur because of marriage, divorce, or other reasons. If your name changes, you should continue to use the name on file with the Secretary of State for notarial acts until your name has been changed on our records.

A Change of Name or Address form is available upon request from this office or by downloading it from our website (see the front cover for the address). You should complete and return the form to this office along with a copy of your Certificate of Office. For name changes only, a new Certificate of Office will be sent to you if you request one. If you have an embossing seal or stamp with your name and expiration date, you must replace them with new ones which have your new name.

## IF YOUR NOTARY PUBLIC COMMISSION CERTIFICATE IS LOST

If your Notary Public Commission Certificate has been lost or destroyed, you may request a duplicate by writing to our office at the address below. The fee for a duplicate certificate is \$10.00. Our mailing address is: Secretary of State, Notary Public Section, 101 State House Station, Augusta, ME 04333-0101.

## RESOURCES

A resource available to Notaries Public in Maine is a book *titled Notary Public Handbook: A Guide for Maine*, by [Alfred E. Piombino](#). Few states (notably New York, Florida and New Jersey) have access to anything as comprehensive. To obtain a copy of this publication, you can contact the Informed Notaries of Maine. The book is an excellent resource on general notarial practice as well as the peculiarities of Maine's notarial climate.

Many organizations have professional associations, to encourage better practices and education. In April of 1993, the **Informed Notaries of Maine (INM)** was formed as a private, professional association for Notaries Public in the State of Maine. Unlike many national organizations which deal with Notaries Public from many different states and territories in the United States, this group is expressly dedicated to issues, practices and education of Notaries Public in the State of Maine. They offer a source of reference, support and information for Maine Notaries Public. For more information concerning membership in this organization, contact INM. (see inside front cover for contact information) Membership in this organization is optional, however, our office urges you to participate in this fine organization which benefits all Notaries Public in Maine. INM also has publications available to assist you in your activities as a Notary Public.

The Department of the Secretary of State is also an excellent source of information, but can not provide legal advice. If a Notary Public has the need of legal advice, a lawyer or legal professional should be consulted. It should always be remembered: **unless a Notary Public is also a Bar certified attorney-at-law, the Notary Public may not give legal advice or practice any aspect of the legal profession. *The role of Notaries Public is to witness oaths, acknowledgments and/or the application of signatures to documents by persons presenting proper forms of identification.***

It is not possible for the Department of the Secretary of State to contact every Notary Public in the State of Maine in the event of a change in the laws which govern the actions of Notaries Public. However, all law and rule changes are published in the legal sections of the major newspapers in Maine and can be found on the Department's website. All Notaries Public are strongly urged to take the time to scan the legal sections of one of these newspapers or view this information on our website so they may be, at all times, professionally literate.

On several occasions, the abbreviation "M.R.S.A." has been used. This stands for "Maine Revised Statutes Annotated" which is the collected laws of the State of Maine. The first number, the number which precedes M.R.S.A. refers to the Title, the second number, the number which follows the M.R.S.A. refers to the section.

Many libraries in Maine, though not all, have copies of the Maine Revised Statutes. You may also find these laws on the website of the Maine State Legislature at:

<http://janus.state.me.us/legis/ros/meconlaw.htm>

## REFERENCES

Notaries Public in the State of Maine are governed by Articles V and VI of the Constitution of the State of Maine, by statutory law as embodied in Maine Revised Statutes Annotated (M.R.S.A.), and by rules promulgated by the Secretary of State through the Administrative Procedure Act (A.P.A.). The following is an index from the Maine Revised Statutes Annotated listing, by subject, areas relating to Notaries Public.

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## NOTARY PUBLIC RULES

**29-250 DEPARTMENT OF SECRETARY OF STATE  
BUREAU OF CORPORATIONS, ELECTIONS AND COMMISSIONS  
DIVISION OF CORPORATIONS, UCC AND COMMISSIONS**

**Chapter 700: RULES GOVERNING ELIGIBILITY AND PROCEDURES FOR APPOINTMENT AND  
RENEWAL OF COMMISSIONS OF NOTARIES PUBLIC**

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**Summary:** 5 M.R.S.A. §82, Maine law specifies that only adult residents of the State may be appointed as Notaries Public. The Secretary of State is charged with establishing criteria and procedures; the one statutory restriction is that appointment or renewal may not be refused solely because the applicant lives or works in a specific geographic area or for political party affiliation. This rule revises such criteria and procedures.

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**§1. Eligibility for Appointment to a Notary Public commission**

Any Maine adult who properly applies for appointment as a Notary Public will be so appointed, with the following provisions:

- A. The applicant must be an adult resident of Maine. An adult is defined as any person who has attained the age of eighteen;
- B. The applicant must be worthy of the public trust. Because certain situations and activities attack the heart of that trust, the appointment will be denied when the following apply:
  - 1. If the applicant has been convicted of a crime for which imprisonment may be a penalty, the applicant is ineligible for appointment while on bail, incarcerated, under probation or parole, or
  - 2. For five years following the date of release from incarceration or termination of probation or parole, whichever comes last, persons convicted of the following are ineligible for appointment as a Notary Public:

Perjury (17-A M.R.S.A. §451)

False swearing (17-A M.R.S.A. §452)

Unsworn falsification (17-A M.R.S.A. §453)

Tampering with public records or information (17-A M.R.S.A. §456)

Impersonating a public servant (17-A M.R.S.A. §457)

Bribery and corrupt practices (17-A M.R.S.A. c. 25)

Bribery in official and political matters (§602)

Improper influence (§603)

Improper compensation for past action (§604)

Improper gifts to public servants (§605)

Improper compensation for services (§606)

Purchase of public office (§607)

Official oppression (§608)

Misuse of information (§609)

Forgery and related offenses (17-A M.R.S.A. c. 29)

- Aggravated forgery (§702)
- Forgery (§703)
- Possession of forgery devices (§704)
- Criminal simulation (§705)
- Suppressing recordable instrument (§706)
- Falsifying private records (§707)
- Negotiating a worthless instrument (§708)

Deceptive business practices (17-A M.R.S.A. §901)

Private bribery (17-A M.R.S.A. §904)

Misuse of credit identification (17-A M.R.S.A. §905)

Possession or transfer of theft of services devices (17-A M.R.S.A. §907)

Conviction in other jurisdictions for offenses similar to those stated in this section, with the Secretary of State's determination of similarity final.

Nothing in this section will be deemed to restrict the Secretary of State's authority to make exceptions on a case-by-case basis regarding eligibility or ineligibility.

## **§2. Procedures for Applying for a Notary Public commission**

- A. The applicant must use the latest application form issued by the Secretary of State.
- B. All applications for appointment must be completed by the applicant using any resource material. All questions must be answered and the application returned to the Secretary of State with a fee of \$25.00.

*(APA Office Note: on July 1, 2005 the fee for all new and renewal notary commissions was changed by statute from \$25 to \$50.)*

- C. In the presence of a Notary Public, the applicant shall attest that the information contained in the application is accurate and the answers were completed by the applicant. The applicant shall sign the application in the presence of the Notary Public. The Notary Public shall certify this attestation by signing the application; a seal may be used if desired.
- D. The applicant shall obtain the signatures and residences of the following persons in the appropriate places on the application form. Two separate individuals must sign the application:
  - 1. A registered Maine voter recommending the application, and attesting to the applicant's capability of performing the duties required of a Notary Public. The registered Maine voter may not act as the Notary Public on this application; and
  - 2. A municipal clerk or registrar of voters of the applicant's residence must indicate which office is held and affix the municipal seal. The clerk or registrar of voters may act as the Notary Public on this application.

- E. Once the application has been processed by the Secretary of State, the certificate of office and the certificate of qualification will be mailed to the applicant. From the date of appointment, as listed on the certificate of qualification, the applicant has 30 calendar days to be sworn into office by a Dedimus Justice, and 45 days from the date of appointment to return the completed certificate of qualification to the Secretary of State. If the applicant has not been sworn into office by the 31st day, the Secretary of State will notify the applicant of the failure to qualify. If the completed certificate of qualification has not been received by the Secretary of State by the 45th day, the Secretary of State will notify the applicant of failure to qualify. From the date of that notification, the applicant has 90 calendar days to request a reappointment by the Secretary of State. From the date of reappointment, the applicant has 30 calendar days to be sworn into office by a Dedimus Justice. If the applicant does not request a reappointment within 90 days from the date of notification of failure to qualify, the applicant must begin the application process from the beginning.

### **§3. Procedures for Renewal of a Notary Public Commission**

5 M.R.S.A. §82 specifies that the Secretary of State shall provide written notice of the expiration of a commission of Notary Public 30 days prior to the date of expiration. Failure of the Notary Public to receive such notice does not, however, delay the expiration date. Notaries Public are advised to keep track of their own expiration dates to avoid accidental expiration.

To renew, the Notary Public must complete the renewal application form provided by the Secretary of State, which may include the following information:

- A. the name under which the commission was issued;
- B. the name of the renewing Notary Public (a difference may arise because of marriage, for example);
- C. the date of expiration of the commission;
- D. the street address (physical location, not P.O. Box or R.F.D. number) of the Notary Public;
- E. the home mailing address;
- F. the home and business, if any, telephone numbers at which the Notary Public may be reached;
- G. a list of any crimes for which the Notary Public has been convicted since the date of the latest renewal or initial commission; and
- H. a \$25.00 renewal fee.

*(APA Office Note: on July 1, 2005 the fee for all new and renewal notary commissions was changed by statute from \$25 to \$50.)*

If the Notary Public fails to renew by the expiration date, then the commission is expired. During the time period after the expiration of the commission, the Notary Public may not perform any notarial acts until the commission is renewed or until a new commission is obtained and the applicant has been sworn into office by a Dedimus Justice. If a request to renew the expired commission is not received by the Secretary of State within 90 days after the date of expiration, the Notary Public must apply for a new commission following the requirements in §2.

The Secretary of State may deny a commission renewal if any of the situations described in §1 above apply.

#### **§4. Name or Address Changes**

If a Notary Public changes his or her name or address, the Notary Public must notify the Secretary of State within 10 days of the date of the change. The Notary Public may use the form provided by the Secretary of State, but must provide such request for a change of name or address in writing. For a change of name, the Notary Public must provide proof of the change by submitting a copy of an appropriate document such as a marriage license, divorce decree, or Probate Court document. A new certificate of office will not generally be issued; however, the Notary Public may request a new certificate of office by submitting a copy of the current certificate of office with the request.

If the Notary Public does not notify the Secretary of State of a change in name, the new name should not be used in notary transactions. If the Notary Public uses a name not on file with the Secretary of State and a certification of the Notary Public for an authentication or apostille is later sought from the Secretary of State, the certification of the Notary Public could not be completed, thus defeating the function of the Notary Public.

#### **§5. Payment of Fees**

All fees noted in this rule must be paid in cash, by check, money order, or in the case of a state employee, through the State's internal journaling process. Payment cannot be accepted by credit card, electronic transfer, or request for later billing.

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EFFECTIVE DATE:  
April 24, 1979

AMENDED:  
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September 11, 1979  
September 11, 1990

EFFECTIVE DATE (ELECTRONIC CONVERSION): April 28, 1996

NON-SUBSTANTIVE CORRECTIONS:  
October 27, 1997- Divisional name

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April 1, 1998

NON-SUBSTANTIVE CORRECTIONS:  
October 25, 2006 - Divisional name; addition of the APA Office Note in Section 2.B and 3.H

# Notes

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